



General Assembly

January Session, 2013

Raised Bill No. 1166

LCO No. 5549



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING INSTALLATION, USE AND ENFORCEMENT
REGARDING IGNITION INTERLOCK DEVICES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 14-227a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2013*):

4 (g) Any person who violates any provision of subsection (a) of this
5 section shall: (1) For conviction of a first violation, (A) be fined not less
6 than five hundred dollars or more than one thousand dollars, and (B)
7 be (i) imprisoned not more than six months, forty-eight consecutive
8 hours of which may not be suspended or reduced in any manner, or
9 (ii) imprisoned not more than six months, with the execution of such
10 sentence of imprisonment suspended entirely and a period of
11 probation imposed requiring as a condition of such probation that
12 such person perform one hundred hours of community service, as
13 defined in section 14-227e, and (C) have such person's motor vehicle
14 operator's license or nonresident operating privilege suspended for
15 forty-five days and, as a condition for the restoration of such license,

16 be required to install an ignition interlock device on each motor vehicle
17 owned or operated by such person and, upon such restoration, be
18 prohibited for the one-year period following such restoration from
19 operating a motor vehicle unless such motor vehicle is equipped with
20 a functioning, approved ignition interlock device, as defined in section
21 14-227j, as amended by this act; (2) for conviction of a second violation
22 within ten years after a prior conviction for the same offense, (A) be
23 fined not less than one thousand dollars or more than four thousand
24 dollars, (B) be imprisoned not more than two years, one hundred
25 twenty consecutive days of which may not be suspended or reduced in
26 any manner, and sentenced to a period of probation requiring as a
27 condition of such probation that such person: (i) Perform one hundred
28 hours of community service, as defined in section 14-227e, (ii) submit
29 to an assessment through the Court Support Services Division of the
30 Judicial Branch of the degree of such person's alcohol or drug abuse,
31 and (iii) undergo a treatment program if so ordered, and (C) (i) if such
32 person is under twenty-one years of age at the time of the offense, have
33 such person's motor vehicle operator's license or nonresident operating
34 privilege suspended for forty-five days or until the date of such
35 person's twenty-first birthday, whichever is longer, and, as a condition
36 for the restoration of such license, be required to install an ignition
37 interlock device on each motor vehicle owned or operated by such
38 person and, upon such restoration, be prohibited for the three-year
39 period following such restoration from operating a motor vehicle
40 unless such motor vehicle is equipped with a functioning, approved
41 ignition interlock device, as defined in section 14-227j, as amended by
42 this act, except that for the first year of such three-year period, such
43 person's operation of a motor vehicle shall be limited to such person's
44 transportation to or from work or school, an alcohol or drug abuse
45 treatment program or an ignition interlock device service center, or (ii)
46 if such person is twenty-one years of age or older at the time of the
47 offense, have such person's motor vehicle operator's license or
48 nonresident operating privilege suspended for forty-five days and, as a
49 condition for the restoration of such license, be required to install an

50 ignition interlock device on each motor vehicle owned or operated by
51 such person and, upon such restoration, be prohibited for the three-
52 year period following such restoration from operating a motor vehicle
53 unless such motor vehicle is equipped with a functioning, approved
54 ignition interlock device, as defined in section 14-227j, as amended by
55 this act, except that for the first year of such three-year period, such
56 person's operation of a motor vehicle shall be limited to such person's
57 transportation to or from work or school, an alcohol or drug abuse
58 treatment program or an ignition interlock device service center; and
59 (3) for conviction of a third and subsequent violation within ten years
60 after a prior conviction for the same offense, (A) be fined not less than
61 two thousand dollars or more than eight thousand dollars, (B) be
62 imprisoned not more than three years for conviction of a third
63 violation within ten years after a prior conviction for the same offense,
64 or be imprisoned not more than five years for conviction of a fourth or
65 subsequent violation within ten years after a prior conviction for the
66 same offense, one year of [which] either such sentence may not be
67 suspended or reduced in any manner, and sentenced to a period of
68 probation requiring as a condition of such probation that such person:
69 (i) Perform one hundred hours of community service, as defined in
70 section 14-227e, (ii) submit to an assessment through the Court
71 Support Services Division of the Judicial Branch of the degree of such
72 person's alcohol or drug abuse, and (iii) undergo a treatment program
73 if so ordered, and (C) have such person's motor vehicle operator's
74 license or nonresident operating privilege permanently revoked upon
75 such third offense, except that if such person's revocation is reversed
76 or reduced pursuant to subsection (i) of section 14-111, such person
77 shall be prohibited from operating a motor vehicle unless such motor
78 vehicle is equipped with a functioning, approved ignition interlock
79 device, as defined in section 14-227j, as amended by this act, for the
80 time period prescribed in subdivision (2) of subsection (i) of section 14-
81 111. For purposes of the imposition of penalties for a second or third
82 and subsequent offense pursuant to this subsection, a conviction under
83 the provisions of subsection (a) of this section in effect on October 1,

1981, or as amended thereafter, a conviction under the provisions of either subdivision (1) or (2) of subsection (a) of this section, a conviction under the provisions of section 53a-56b or 53a-60d or a conviction in any other state of any offense the essential elements of which are determined by the court to be substantially the same as subdivision (1) or (2) of subsection (a) of this section or section 53a-56b or 53a-60d, shall constitute a prior conviction for the same offense.

Sec. 2. Subsection (b) of section 14-227j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who has been arrested for a violation of subsection (a) of section 14-227a, section 53a-56b, or section 53a-60d, [may] shall be ordered by the court not to operate any motor vehicle unless such motor vehicle is equipped with an ignition interlock device. Any such order [may] shall be made as a condition of such person's release on bail, as a condition of probation or as a condition of granting such person's application for participation in the pretrial alcohol education program under section 54-56g and may include any other terms and conditions as to duration, use, proof of installation or any other matter that the court determines to be appropriate or necessary.

Sec. 3. Subsection (g) of section 14-36 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(g) The commissioner may place a restriction on the motor vehicle operator's license of any person or on any special operator's permit issued to any person in accordance with the provisions of section 14-37a that restricts the holder of such license or permit to the operation of a motor vehicle that is equipped with an approved ignition interlock device, as defined in section 14-227j, as amended by this act, for such time as the commissioner shall prescribe, if such person has been: (1) Convicted for a first or second time of a violation of subdivision (2) of

115 subsection (a) of section 14-227a, and has served not less than forty-
116 five days of the prescribed period of suspension for such conviction, in
117 accordance with the provisions of subsections (g) and (i) of section 14-
118 227a, as amended by this act; (2) ordered by the Superior Court not to
119 operate any motor vehicle unless it is equipped with an approved
120 ignition interlock device, in accordance with the provisions of section
121 14-227j, as amended by this act; (3) granted a reversal or reduction of
122 such person's license suspension or revocation, in accordance with the
123 provisions of subsection (i) of section 14-111; (4) issued a motor vehicle
124 operator's license upon the surrender of an operator's license issued by
125 another state and such previously held license contains a restriction to
126 the operation of a motor vehicle equipped with an ignition interlock
127 device; (5) convicted of a violation of section 53a-56b or 53a-60d; or (6)
128 permitted by the commissioner to be issued or to retain an operator's
129 license subject to reporting requirements concerning such person's
130 physical condition, in accordance with the provisions of subsection (e)
131 of this section and sections 14-45a to 14-46g, inclusive. If the
132 commissioner places a restriction on the motor vehicle operator's
133 license of any person or on any special operator's permit issued to any
134 person in accordance with this subsection, the commissioner shall
135 issue a new operator's license or special operator's permit to such
136 person that indicates that such license or permit is subject to such
137 restriction. The commissioner may charge such person a fee for such
138 license or permit in accordance with the applicable fee for such license
139 or permit set forth in section 14-41.

140 Sec. 4. (NEW) (*Effective October 1, 2013*) (a) Whenever any motor
141 vehicle which may have been used by a person required to install an
142 ignition interlock device pursuant to section 14-227a of the general
143 statutes, as amended by this act, has been seized pursuant to this
144 section as a result of a lawful arrest for failure to install or use such
145 ignition interlock device and which the state seeks to have disposed of
146 in accordance with the provisions of this section, the law enforcement
147 agency arresting the person accused of such violation shall, not later

148 than ten days after such seizure, cause to be left with the owner of, and
149 with any person claiming of record a bona fide lien, lease or security
150 interest in the vehicle so seized as of the date of seizure, or at such
151 person's usual place of abode or business, a summons notifying the
152 owner and any such other person claiming such lien, lease or security
153 interest that the motor vehicle has been seized, that the owner or the
154 owner's agent, permittee or lessee may secure release of the motor
155 vehicle upon substitution of a bond or other security as provided in
156 section 6 of this act and that the owner or other person claiming such
157 lien, lease or security interest shall appear before the court at a place
158 and time named in such notice which shall be not less than ten, nor
159 more than twenty, days after the service thereof. The summons shall
160 be signed by a clerk of the court and service shall be made by a local or
161 state police officer or by registered or certified mail. The summons
162 shall describe the motor vehicle with reasonable certainty and state
163 when, where and why the motor vehicle was seized.

164 (b) The owner or any other person claiming such lien, lease or
165 security interest in the motor vehicle who has received notice of its
166 seizure pursuant to subsection (a) of this section or any other person
167 claiming such lien, lease or security interest in the motor vehicle may
168 appear at such hearing. The hearing shall be deemed a civil suit in
169 equity. At such hearing the prosecuting authority shall have the
170 burden of proving all material facts by clear and convincing evidence.
171 No testimony offered or evidence produced by such owner or person
172 claiming a lien, lease or security interest at such hearing and no
173 evidence discovered as a result of or otherwise derived from such
174 testimony or evidence may be used against such owner or person
175 claiming a lien, lease or security interest in any proceeding, except that
176 no such owner or person claiming a lien, lease or security interest shall
177 be immune from prosecution for perjury or contempt committed while
178 giving such testimony or producing such evidence. If, after such
179 hearing, the court finds that the prosecuting authority has failed to
180 meet its burden of showing that the motor vehicle was used without

181 an ignition interlock device installed in violation of section 14-227a of
182 the general statutes, as amended by this act, or has failed to meet its
183 burden of showing that such owner or person claiming a lien, lease or
184 security interest knew or reasonably should have known that such
185 motor vehicle was being used or was intended to be used in such
186 violation, the court shall order that such motor vehicle be released to
187 such owner or person claiming a lien, lease or security interest or shall
188 take such other action as may be necessary to protect the interest of
189 such owner or person claiming a lien, lease or security interest.

190 (c) Upon conviction of a person for failure to operate a motor
191 vehicle with an ignition interlock device installed in violation of
192 section 14-227a of the general statutes, as amended by this act, the
193 court may render a judgment that the motor vehicle used in the
194 commission of the offense be forfeited to the state, except that if any
195 such motor vehicle is subject to a bona fide lien, lease or security
196 interest, such motor vehicle shall not be so disposed of in violation of
197 the rights of the holder of such lien, lease or security interest.
198 Whenever any motor vehicle has been ordered forfeited to the state
199 under this section, the court shall order that such motor vehicle be sold
200 at public auction and the proceeds: (1) Applied to payment of the
201 balance due on any lien, lease or security interest recognized or
202 preserved by the court; (2) applied to payment of any costs incurred
203 for the storage, maintenance and forfeiture of such vehicle; and (3) any
204 remainder be deposited in the General Fund.

205 (d) Upon final disposition other than a conviction for operating a
206 motor vehicle without an ignition interlock device installed in
207 violation of section 14-227a of the general statutes, as amended by this
208 act, the court shall order the motor vehicle returned to its owner.

209 (e) If the court concludes that a motor vehicle previously owned by
210 the arrested person would have been subject to forfeiture under this
211 section but for the fact that it was transferred by the arrested person
212 prior to the judgment of forfeiture with the intention of preventing its

213 forfeiture under this section, the court may set aside such transfer. The
214 court may also render any other appropriate order reasonably
215 necessary to protect the rights of any innocent party to any such
216 transfer.

217 (f) At any time prior to or after a judgment of forfeiture under this
218 section, the prosecuting authority may compromise or otherwise remit
219 or mitigate in whole or in part any claim or potential claim of the state
220 arising under this section.

221 Sec. 5. (NEW) (*Effective October 1, 2013*) No motor vehicle shall be
222 forfeited under sections 4 to 6, inclusive, of this act to the extent of the
223 interest of an owner, lienholder, lessor or holder of a security interest
224 by reason of an act or omission committed by another person unless
225 such owner, lienholder, lessor or holder of a security interest knew or
226 reasonably should have known that such motor vehicle was being
227 used or was intended to be used without an ignition interlock device
228 installed in a violation of section 14-227a of the general statutes, as
229 amended by this act. No motor vehicle that is jointly owned shall be
230 forfeited under sections 4 to 6, inclusive, of this act unless all owners of
231 record knew or reasonably should have known that such motor vehicle
232 was being used or was intended to be used in such violation.

233 Sec. 6. (NEW) (*Effective October 1, 2013*) (a) Any motor vehicle seized
234 in connection with the arrest of a person for operating a motor vehicle
235 without an ignition interlock device installed in violation of section 14-
236 227a of the general statutes, as amended by this act, shall be released to
237 the owner thereof or the owner's agent, permittee or lessee upon the
238 substitution of cash or a bond with surety or a lien on any other
239 property of the owner or the owner's agent, permittee or lessee which
240 has a net equity value equal to or greater than the fair market value of
241 the motor vehicle.

242 (b) If a motor vehicle seized in connection with the arrest of a person
243 for such violation is released pursuant to subsection (a) of this section

244 and such arrested person is convicted of such violation, the owner of
 245 the motor vehicle or the owner's agent, permittee or lessee shall deliver
 246 the motor vehicle in substantially the same condition as when it was
 247 seized, reasonable wear and tear excepted, not later than five days
 248 after the judgment of forfeiture to the party designated by the court in
 249 such judgment. If the motor vehicle is delivered as ordered, the court
 250 shall order the bond or other security substituted pursuant to
 251 subsection (a) of this section to be returned to the owner or the owner's
 252 agent, permittee or lessee. If the motor vehicle is not so delivered, the
 253 court shall order such bond or other security to be forfeited and the
 254 proceeds disposed of as provided in subdivisions (1) to (3), inclusive,
 255 of subsection (c) of section 4 of this act.

256 (c) If the arrested person is not convicted of such violation, the court
 257 shall order the bond or other security substituted pursuant to
 258 subsection (a) of this section to be returned to the owner or the owner's
 259 agent, permittee or lessee.

260 Sec. 7. Subdivision (9) of subsection (i) of section 14-227a of the
 261 general statutes is repealed and the following is substituted in lieu
 262 thereof (*Effective October 1, 2013*):

263 (9) (A) Any person required to install an ignition interlock device
 264 under this section shall be supervised by personnel of the Court
 265 Support Services Division of the Judicial Branch while such person is
 266 subject to probation supervision or by personnel of the Department of
 267 Motor Vehicles if such person is not subject to probation supervision,
 268 and such person shall be subject to any other terms and conditions as
 269 the commissioner may prescribe and any provision of the general
 270 statutes or the regulations adopted pursuant to subdivision (3) of this
 271 subsection not inconsistent herewith.

272 (B) Any person required to install an ignition interlock device under
 273 this section who does not install such ignition interlock device
 274 pursuant to a claim that such person does not operate a motor vehicle

275 may be required by the division or department, as the case may be, to
 276 submit to daily electronic sobriety monitoring during the period that
 277 such person is required to install such ignition interlock device but
 278 fails to do so. Such daily electronic sobriety monitoring shall consist of
 279 morning and evening chemical analysis of such person's breath to
 280 determine that such person has not consumed alcohol. Such person
 281 may be required to pay the cost of such monitoring in an amount not
 282 to exceed one thousand dollars annually, unless such person is
 283 indigent under the criteria set forth in subsection (b) of section 52-259b.
 284 Any person who violates the provisions of this subparagraph shall be
 285 guilty of a class C misdemeanor.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2013	14-227a(g)
Sec. 2	October 1, 2013	14-227j(b)
Sec. 3	October 1, 2013	14-36(g)
Sec. 4	October 1, 2013	New section
Sec. 5	October 1, 2013	New section
Sec. 6	October 1, 2013	New section
Sec. 7	October 1, 2013	14-227a(i)(9)

Statement of Purpose:

To: (1) Establish a heightened penalty for a fourth or subsequent conviction of operating a motor vehicle under the influence of intoxicating liquor or drugs, (2) prohibit persons arrested for crimes involving the operation of a motor vehicle while under the influence of intoxicating liquor or drug from operating a motor vehicle unless it is equipped with an ignition interlock device, (3) establish a specific identifiable operator's license or special operator's permit for persons subject to a restriction on such license or permit that restricts operation of a motor vehicle unless it is equipped with an approved ignition interlock device, (4) permit the forfeiture of a motor vehicle used by a person required to install an ignition interlock device who fails to do so, and (5) require daily electronic sobriety monitoring for persons who claim to have no motor vehicle and therefore do not install an approved ignition interlock device in a motor vehicle.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]